

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

R2 TECHNOLOGIES CORPORATION,
DBA R2 TECHNOLOGIES, a GEORGIA
CORPORATION,

Plaintiff/Counter-Defendant,

Case No. 2:18-cv-11456
Hon. David M. Lawson

vs.

DEEPAK BANGALORE NAGARAJ,

Defendant/Counter-Plaintiff.

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**ANSWER TO PLAINTIFF'S CORRECTED FIRST AMENDED
COMPLAINT, AFFIRMATIVE DEFENSES, AND COUNTERCLAIM**

Defendant/Counter-Plaintiff Deepak Bangalore Nagaraj¹, by his attorneys Sterling Attorneys at Law, P.C., for his Answer to Plaintiff's Corrected First Amended Complaint (hereinafter "Complaint"), Affirmative Defenses and Counterclaim, states as follows:

¹ Defendant/Counter-Plaintiff's last name is misspelled in the caption and body of the Complaint. The correct spelling is Nagaraj, not "Najarah" or "Najaraj."

PARTIES

1. Defendant/Counter-Plaintiff lacks knowledge and information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 1 of the Complaint, and leaves Plaintiff to its proofs.

2. Defendant/Counter-Plaintiff admits the allegations set forth in Paragraph 2 of the Complaint.

JURISDICTION AND VENUE

3. Defendant/Counter-Plaintiff incorporates the preceding paragraphs by reference.

4. Defendant/Counter-Plaintiff admits the allegations set forth in Paragraph 4 of the Complaint.

GENERAL ALLEGATIONS

5. Defendant/Counter-Plaintiff incorporates the preceding paragraphs by reference.

6. Defendant/Counter-Plaintiff admits the allegations set forth in Paragraph 6 of the Complaint.

7. Defendant/Counter-Plaintiff denies the allegations set forth in Paragraph 7 of the Complaint.

COUNT I- BREACH OF CONTRACT

8. Defendant/Counter-Plaintiff incorporates the preceding paragraphs by reference.

9. Defendant/Counter-Plaintiff denies the allegations set forth in Paragraph 9 of the Complaint.

COUNT II - INJUNCTIVE RELIEF

10. Defendant/Counter-Plaintiff incorporates the preceding paragraphs by reference.

11. Defendant/Counter-Plaintiff denies the allegations set forth in Paragraph 11 of the Complaint.

INCORPORATION OF ORIGINAL COMPLAINT

12. Paragraph 12 of the Complaint sets forth no allegation of facts to which a response is required. To the extent any response is necessary, Defendant/Counter-Plaintiff denies the allegations.

AFFIRMATIVE DEFENSES

1. Plaintiff fails to state a claim upon which relief can be granted.
2. The agreement between the parties is not enforceable due to a failure of consideration.
3. The Non-Competition provision of the agreement exceed Plaintiff's reasonable competitive business interests.
4. The Non-Competition provision of the agreement violates public policy and should not be enforced.

5. To the extent Plaintiff can prove a breach of the contract, Plaintiff's damages are limited by the liquidated damages clause in the Paragraph 8 of the contract.

6. Plaintiff's claim is barred in whole or part by the doctrine of unclean hands.

7. Plaintiff has failed to mitigate its damages.

8. Plaintiff has not and will not suffer irreparable damages and there is no basis for injunctive relief.

COUNTERCLAIM

Defendant/Counter-Plaintiff Deepak Bangalore Nagaraj ("Nagaraj"), by his attorneys Sterling Attorneys at Law, P.C., for his counterclaim against Plaintiff/Counter-Defendant R2 Technologies Corporation ("R2"), states as follows:

1. R2 is an "employer" as defined by the Fair Labor Standards Act, 29 USC 203(d) ("FLSA").

2. From August 29, 2016 until November 12, 2017, R2 employed Nagaraj as a Programmer Analyst and agreed to pay him \$33.79 an hour plus \$112.96 per diem.

3. From October 1, 2017 until November 12, 2017, Nagaraj provided 240 hours of work for R2.

4. R2 never paid Nagaraj for this work he performed or paid his per diem.

5. R2 and Nagaraj had an express agreement that R2 would pay Nagaraj \$33.79 an hour for all hours that he worked plus a per diem of \$112.96 for all days that he performed work on behalf of R2.

6. R2 breached its agreement by not compensating Nagaraj for this work.

7. R2 willfully withheld Nagaraj's wages and overtime compensation in violation of Section 29 USC 255(a) of the FLSA.

8. Nagaraj is also entitled to an award of reasonable attorney fees and costs pursuant to 29 USC 216(b).

9. Under the doctrine of quantum meruit, R2 reaped an unfair benefit by failing to pay Nagaraj for these services.

10. Inequity and injustice will result if R2 retains the benefit of Nagaraj's services without compensating him.

11. Nagaraj is entitled to payment for all uncompensated hours.

WHEREFORE, Defendant/Counter-Plaintiff Nagaraj respectfully requests that this Honorable Court grant him the following relief:

A. An award under 29 USC 216(b) for unpaid wages and overtime compensation, together with liquidated damages in an amount equal to his actual damages;

- B. Attorney fees and costs;
- C. Interest as an element of damages; and
- D. Such further relief as the Court deems just and proper.

JURY DEMAND

Defendant/Counter-plaintiff Deepak Bangalore Nagaraj, by his attorneys, Sterling Attorneys at Law, P.C., requests a trial by jury.

PROOF OF SERVICE

I certify that on July 10, 2018, I filed the foregoing paper with the Clerk of the Court using the e-filing system which will electronically send notification to all attorneys of record.

/s/Brian J. Farrar
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Respectfully submitted,

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